DOCUMENT RESUME

ED 370 193 EA 025 824

AUTHOR Ihle, Elizabeth L.
TITLE The Teacher Salary Equalization Movement in Virginia: The NAACP and the Virginia State Teachers Association, 1935-1941.
PUB DATE Apr 94
NOTE 27p.; Paper presented at the Annual Meeting of the American Educational Research Association (New Orleans, LA, April 4-8, 1994).
PUB TYPE Speeches/Conference Papers (150) -- Viewpoints (Opinion/Position Papers, Essays, etc.) (120)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Court Litigation; *Educational Equity (Finance); Educational History; Elementary Secondary Education; Equal Opportunities (Jobs); Public Schools; *Racial Discrimination; *State Courts; *Teacher Salaries; Teacher Welfare
IDENTIFIERS *National Association Advancement Colored People; *Virginia

ABSTRACT

During the 1930s and 1940s, the National Association for the Advancement of Colored People (NAACP) devoted much time trying to improve educational opportunities for African-Americans within the existing segregated school system. The teacher salary equalization movement began with a series of successful cases in Maryland. This paper examines how the NAACP used the lessons gained from the Maryland experience to advance the teacher salary equalization movement in Virginia from 1935 to 1941. The role of Thurgood Marshall is also described. By the end of the 1940s, the NAACP realized the impossibility of equal separate schools and decided to attack the entire system of school segregation. However, the teacher salary struggle produced the following gains: (1) teachers gradually received equal pay for equal work; (2) the equity of financial outlay between African-American and White schools was improved; and (3) the NAACP gained procedural knowledge, which aided salary fights in other states. Three tables are included. (LMI)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 370 193

THE TEACHER SALARY EQUALIZATION MOVEMENT IN VIRGINIA: THE NAACP AND THE VIRGINIA STATE TEACHERS ASSOCIATION, 1935-1941

Elizabeth L. Ihle

Department of Secondary Education, Library Science, and Educational Leadership
James Madison University
Harrisonburg, VA 22807
(703) 568-6486

presented at the
AMERICAN EDUCATIONAL RESEARCH ASSOCIATION
New Orleans, Louisiana
April 5, 1994

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

E. L. Ihle

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC).

EA 025 824

BEST COPY AVAILABLE

The National Association for the Advancement of Colored People (NAACP) spent much of the 1930s and 1940s trying to improve educational opportunities for Black Americans within the existing segregated system. It examined issues concerning school building programs, length of school terms, textbooks, the distribution of WPA building funds, and school transportation. Overshadowing many of these issues was the teacher salary equalization movement, which began with a series of successful cases in Maryland between 1936 and 1940.[1] This paper examines how the NAACP tried to apply lessons its learned from its Maryland experience to working toward the same goal of salary equalization in Virginia in the late 1930s and early 1940s.

Although other racial inequalities in education existed, several reasons made teacher salary equalization a particularly promising issue to contest. One factor was that most districts used published salary schedules which made the differences between the races clear to all. In 1938-39 the average white teacher in the a Virginia city system made $1380, while the average Black one made only $958; with the county systems added in, the discrepancy became even worse: whites made an average of $912, while Blacks averaged out at $598.[2] (See Table 1.) Another factor was that Black teachers, though definitely

---

[1]Mark Tushnet, **The NAACP's Legal Strategy against Segregated Education, 1925-1950**, (Chapel Hill: The University of North Carolina Press,1987), pp. 58-69.

[2]**Annual Report of the Superintendent of Public Instruction of the Commonwealth of Virginia**, 1938-39, p. 205.

underpaid, formed a distinct, educated, and well respected part of the Black middle class community and were likely to be more articulate and assertive than less fortunate Blacks. Finally, the fact that the teachers were already organized in their segregated Virginia State Teachers Association (VSTA) with four thousand members made communication, strategy, and cooperation with the NAACP easy and efficient.

The NAACP began its salary campaign in Virginia by sending representatives to speak at the VSTA each year beginning in the mid-1930s. Charles Houston, special counsel to the NAACP, spoke at the annual meeting in 1935. Although he suggested attacking the salary equalization movement through the courts, no action was taken until 193[illegible] because conservative teachers were able to defeat such a measure.[3] Some teachers evidently feared that such a movement might cost them their positions.

In 1937, after teacher salary equalization work had already begun in Maryland, Thurgood Marshall, the NAACP's chief attorney, reported to the executive officers of VSTA on progress made in Maryland. Although the minutes of the meeting made it quite clear that Marshall neither urged nor suggested that Virginia teachers take similar action, the officers were clearly interested in the issue. Before making a decision, they contacted **Norfolk Journal and Guide** managing editor, P. B. Young,

---

[3]**Norfolk Journal and Guide**, national edition, December 7, 1935; Memo to Mr. [Walter] White from Mr. [Thurgood] Marshall, November 29, 1937. NAACP Papers Library of Congress, Group 1, Legal Files, Box D-91, Folder Cases Supported--Teacher Salary Cases--Virginia 1935-1936, July-December, 1937.

Jr., to ascertain his attitude; they knew that if he approved he would give support in the **Journal and Guide** which had national as well as local readership. Young responded that he was "entirely sympathetic to the effort and expressed sincere regret that he could not actively participate in the movement." Apparently his answer was sufficient to encourage the group to move ahead. The officers decided to bring the issue to the floor of the general VSTA meeting.[4]

The teachers established a committee called the Defense Fund for the Equalization of Teachers' Salaries in the State of Virginia. It was composed of members of the Virginia State Teachers Association and members of the state NAACP. Respective heads of the teachers' group and the state NAACP committee, William Cooper, Director of Extension at Hampton Institute, and Dr. J. M. Tinsley served as co-chairs; in order to avoid harassment and intimidation, the names of the other committee members were not made public. The treasurer of the group was to be bonded for $5000 since he would be collecting donations.[5]

The teachers' association passed a series of supportive resolutions, setting aside $1000 to help defray the expenses of

---

[4]Minutes, November 23-24, 1937, Virginia State Teachers Association, Executive Secretary Record Books, Box #1, Special Collections, Johnston Memorial Library, Virginia State University, Ettrick, VA.

[5]Memo to Mr. [Walter] White from Mr. [Thurgood] Marshall, November 29, 1937; minutes of the meeting between the Virginia State Conference of the NAACP and the Virginia State Teachers Association, November 26, 1937. NAACP Papers of the Library of Congress, Group 1, Legal Files, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia 1935-1936, July-December 1937.

the movement and requesting that every association member give $1 to the cause. The money would be used to pay the cost of the lawsuits entered into and the traveling expenses of the attorneys, and the remainder would go into a trust fund out of which the salary of the teachers involved would be paid. The NAACP would pay the salaries of their attorneys who included Charles Houston, Leon A. Ransome, and Thurgood Marshall and the local attorney J. Thomas Hewin, Jr., who was on the legal staff of the Virginia NAACP conference.[6]

Despite the organization of the Teacher Salary Committee, developments occurred slowly over the next year or so. One problem was timing. The NAACP legal staff reasoned that a lawsuit in the spring of the year for either mandamus or a declaratory judgment would depend upon the plaintiff's having an interest in the equalization litigation; if a school board simply chose not re-hire the plaintiff, the lawsuit would have to be dropped because the plaintiff would no longer have an interest in the outcome. Thus, a spring filing was a bad idea.[7]

A more serious problem was the lack of a suitable plaintiff. Marshall wrote to Young in the spring of 1938 about his

---

[6]Minutes of a meeting between the Virginia State Teachers Association and the Virginia State Conference of the NAACP, November 26, 1937. NAACP Papers. Library of Congress, Group 1, Legal Files, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia 1935-36, July-December, 1937.

[7]Confidential Memorandum to Members of the Joint Committee on Teachers' Salaries in Virginia from The Legal Staff, May 13, 1938, NAACP Papers, Library of Congress, Group 1, Legal File, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia, May-Sept, 1938.

frustration in locating, without any publicity that might leak to the white press, a teacher willing to serve as litigant. Marshall asked if Young would write an editorial in the **Journal and Guide** that might be helpful to the search. "I am wondering if this can be done without mentioning the fact that they [the teachers] are not responding as well as we expected."[8]

A questionnaire was developed for each potential applicant which required the applicant to reveal information about personal life, teaching qualifications, teaching performance, the level of activity of Blacks in that community, and the applicant's activity within that community. The NAACP obviously wanted to insure that it found a suitable candidate who could stand close public scrutiny of his/her personal and professional life. By the spring of 1938 only one applicant had been located, and the NAACP Legal Staff sent a confidential memorandum to the equalization committee asking each of them to seek a candidate over the summer.[9]

Despite the lack of teachers willing to serve as plaintiffs, interest in the case was high. William M. Cooper, co-chair of the Teachers Salary Equalization Defense Fund, wrote Marshall in

---

[8]Letter to Mr. P. B. Young, Jr., Managing Editor, **Journal and Guide**, from Thurgood Marshall, March 29, 1938; NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Cases Supported--Teachers Salary Cases--Virginia, January-April, 1938.

[9]Confidential Memorandum to Members of the Joint Committee on Teachers' Salaries in Virginia From The Legal Staff, May 13, 1938, NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia, May-September, 1938.

March of that year that

> ...from comments picked up from others throughout the State, the suspense is doing the cause of Negro education a great deal of good. There are many counties wondering if the case is going to be brought to bear, the superintendents are inquiring from Negro representatives as to what they think will happen, and so on. I understand, also, that funds are being raised in many communities to support the case. I think you have no fear that the case will be carried out as planned as far as the teachers' part is concerned.[10]

Six months later, in the fall of 1938, the teachers' enthusiasm had waned because of apparent lack of action. Tinsley, the head of the state NAACP, worried that the lack of action was hurting his organization:

> We are about to start our membership drive here and the teachers are whispering it around that they are not going to put any money in our drive, because we haven't started on their case. Of course you will understand the reason why as well as I do. The only thing is I can curse them out and get them told the reason why, in the papers is because we don't want Mr. Charley to know the truth of the case, however, I shall make it my business to send some kind of comunication [sic] to each of the teachers here in Richmond and let them know a piece of my mind.[11]

Progress had been made, however, with the location of a plaintiff, Aline Elizabeth Black, a thirty-two year-old single teacher at Booker T. Washington High School in Norfolk. She had

---

[10]Letter to Thurgood Marshall from Wm. N. Cooper, Director of Extension, Hampton Institute, March 2, 1938. NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia, January-April, 1938.

[11]Letter to Thurgood Marshall from J. M. Tinsley, October 7, 1938, NAACP Papers. Library of Congress, Group 1, Legal Files, Box D-91, Folder Cases Supported--Teachers Salary Cases, Virginia, October-December, 1938.

earned a Bachelor of Science degree in 1926 from Virginia State College and an M. S. from the University of Pennsylvania in 1935. She taught chemistry, general science, and English and held a collegiate professional teaching certificate which did not expire until 1946. Her attendance and teaching performance were satisfactory, and her annual salary was $1045.[12]

Tinsley's and the teachers' concerns over lack of action were alleviated at the end of October, just before the VSTA annual meeting, when the Norfolk School Board received by registered mail a petition from Black asking that the board "adopt and enforce a new salary schedule equal as to all teachers and principals with the same qualifications and experience and without any distinction being made as to race or color of teachers of schools." The petition indicated that black high school teachers received a minimum of $699 and a maximum of $1105, as compared to white teachers whose minimum was $970 and maximum $1900. In an effort not to alienate white teachers, Tinsley noted that black teachers "do not want this equalization if white teachers' salaries have to be reduced in order for them to obtain it."[13] The **Journal and Guide** reacted with an editorial supporting the fight for salary equity:

---

[12]NAACP Personal Fact Sheet for Aline Elizabeth Black. NAACP papers. Group 1. Legal Files, Box D-91. Folder: Cases Supported, Teaching Salary Cases, Norfolk VA briefs.

[13]Undated press release from the NAACP. NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Folder Cases Supported--Teachers Salary Cases--Virginia, October-December 1938; "First Step Taken In Norfolk to Equalize Salaries of White and Negro Teachers, **Richmond Times-Dispatch**, November 1, 1938.

> It was brought out recently that the janitors in the state-controlled liquor stores receive higher wages than the average colored teacher in the public schools of Virginia. That approximately 4,000 adults who have had to work and sacrifice for years in order to acquire a college education and other qualifications necessary to obtain positions as teachers in a state supported educational system should receive less pay than the people who sweep the floors and run errands in liquor stores is probably unknown to a majority of our citizens of the advantaged race.[14]

The school board postponed indefinitely a hearing on Black's petition. At the annual meeting of VSTA just after the petition had been filed, Thurgood Marshall labelled those teachers who had not yet contributed to the Defense Fund "a disgrace to the profession and to the race."[15]

Even as the petition was filed, Marshall was still moving very carefully since he was actually trying to create new legal precedent. "These cases are to an extent experiments and our job is to use the experiment with the least risk and the greatest possibility of success," he later wrote in a memo to the Joint Committee on Teachers Salaries. He outlined three possible methods of attack: (1) civil action for back pay; (2) mandamus to compel payment of equal salaries; (3) injunction to enjoin the payment of smaller salaries to black teachers.[16]

---

[14]**Journal and Guide**, November 5, 1938.

[15]**Journal and Guide**, peninsula edition, December 3, 1938.

[16]STATEMENT to the Joint Committee on Teachers' Salaries in Virginia concerning cases of Aline E. Black and Melvin C. Alston, October 30, 1939. NAACP papers. Group 1. Legal Files. Box D-91. Folder Cases Supported Teachers Salary Cases, Norfolk VA, October 3-31, 1939. A **mandamus** is an order from a court to a public body or official or a lower court to do something; and **injunction** is a

Since in Maryland the mandamus had worked well with salaries equalized in nine counties with an increase of over $100,000 annually, Marshall decided to use that tactic again in Virginia. After surveying the records of how each of the potential judges treated blacks, he chose to file in the Circuit Court of Norfolk. He decided against filing in the Supreme Court of Appeals of Virginia because it used only depositions, and Marshall wanted to use Black as a witness; additionally, the use of the Appeals Court earlier in Florida had been unsuccessful since the case had been sent back to a lower court.[17]

As the equalization fight dragged on into 1939, Young asked Walter White, the head of the NAACP, to write an editorial for the **Journal and Guide** to revive flagging morale, and Marshall supplied the first draft. In it he extolled the courage of VSTA and its counterparts in Maryland and Alabama for furnishing funds for a fight and the willingness of individual teachers to serve as litigants. He closed with a summary of the NAACP's thinking at that time: "Our position is that if the South in its poverty is determined to maintain an expensive dual system of education, then it will have to pay for it." Another editorial in the **Journal and Guide** referenced another published source that expressed the view of one Norfolkian that "the spreading movement to remove the Negro from economic bondage as a Nazi-inspired

---

court order prohibiting a certain course of action.

[17]Marshall, STATEMENT October 30, 1939, p. 2.

one."[18]

Because of the school board's inaction, a lawsuit for salary equalization was filed in the Norfolk Circuit Court on March 2, 1939, and, after a number of postponements which the NAACP fought, was decided on May 30, 1939. The judge denied the African-American teachers and principals a writ of mandamus on the grounds that it was the responsibility of school boards, not the courts, to fix salaries. A few hours later the NAACP attorneys filed an appeal with the Virginia State Court of Appeals for a writ of error.[19]

About the same time, the Norfolk school board chose not to rehire plaintiff Black for the 1939-40 academic year, but no reason was given. The NAACP used her dismissal and the news that the board had deducted $4.01 from her salary for the day that she was in court to renew interest in the fight. Even the mainstream **Norfolk Virginia-Pilot** took exception to the school board's action, calling it "an act of reprisal in which it can take no pride." "If," the paper continued,"at the end of the present case, the Supreme Court of the United States should uphold the contention of the petitioner (and no one can be sure that it will not) the School Board will be in the delectable position of

---

[18]Draft of **Journal and Guide** editorial, NAACP papers. Legal Files, Group 1, Box D-91, Folder--Cases Supported Teacher Salary Cases--Virginia January-April, 1939; **Journal and Guide**, March 11, 1939.

[19]**Richmond Times-Dispatch**, June 1, 1939; NAACP news release, June 2, 1939. NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Folder Cases Supported Teachers Salary Cases Norfolk, VA, June-August 1939.

having fired a teacher for an effort to obtain her constitutional rights."[20]

The Teachers' Salary Defense Fund made arrangements, as previously agreed upon, to pay Black's salary for the following year. Her firing, though certainly not unexpected, precipitated more community involvement. Later in the month a downtown march of hundreds of school children carrying signs supporting Black and criticizing the school board's actions preceded a mass meeting which produced a petition with 1200 signatures supporting Black's reinstatement. Several whites attended the meeting, including a public stenographer taking down everything in shorthand. Other whites included members of the Norfolk Inter-racial Commission which later made a plea to the school board to reappoint Black, but the school board replied that it would not take up that issue until she ceased to be a plaintiff in the suit.[21]

Although the possibility of Black's firing always existed, its reality and the number of postponements clearly demonstrated that the mandamus approach in Virginia would not work, and the NAACP attorneys withdrew the lawsuit since as a non-teacher Black no longer had a compelling interest in the case. In a memo to the Teacher Salary Defense Fund explaining the legal situation,

---

[20]June 16, 1939.

[21]**Journal and Guide**, peninsula edition, July 1, 1939; excerpts from the minutes of the School Board of the City of Norfolk, VA., NAACP Papers, Library of Congress, Legal Files, Group 1, Box D-91, Folder Cases Supported Teacher Salary Cases, Norfolk, VA, January-May, 1939.

Marshall's frustration over the legal uncertainties of the case showed in the following comment which he later scratched out:

> Now that these facts have been established it seems that everyone in Virginia is of the opinion that mandamus will not work and most of the people say that 'they knew it all the time'. If some of these people would only come forward before these cases are actually carried thru [sic] the court we would appreciate it very much."[22]

Marshall's next move was to start a new lawsuit with Melvin Alston as plaintiff. The first step was to file another petition for salary equalization with the Norfolk school board, but the disappointments of the **Black** case had taken their toll. Failing to understand the fact that Marshall and his staff had no legal precedent on which to base the salary equalization struggle, VSTA was both disappointed and critical that their donated dollars had not brought immediate success. Alston himself, president of the Norfolk Teachers' Association, pointed this out in a letter to Marshall in response to a request for a copy of his organization's constitution. The inability of the association to unearth a copy of its constitution for Marshall, Alston opined

> is due to the fact that they are among a large number of local teachers who do not want the suit filed in the name of the association. One of the strongest arguments offered by members of this group is that there are too many question which they have which involve their vital welfare, concerning their legal status in filing in the names of the Association ....Unless, too, I have the backing of the association to the extent of filing in their name, I am somewhat

---

[22]Marshall, STATEMENT, October 30, 1939.

adverse to going to court.[23]

Marshall tried to smooth things over. In a letter to the executive secretary of VSTA, he grumbled that it would be necessary for him to return to Norfolk to straighten things out. "I do not mind running up and down the road, but it does seem a shame that it [is] necessary to spend funds to straighten out Negroes when they need the funds to fight Negroes' rights."[24]

Cooper, co-chair of the Teachers Salary Equalization Defense Fund, was not satisfied by Marshall's efforts and wrote Walter White, the Executive Secretary of the NAACP, a letter criticizing the legal staff as "not well informed" and wondering if Marshall et al were giving the case the time and attention it deserved. White's reply pointed out that while the Virginians were understandably concerned with the Norfolk situation their case was just a part of a larger national campaign. White staunchly defended Marshall noting that the lawyer

> has been so burdened with work in the Virginia, Maryland, Tennessee, Florida, Missouri and other fights against educational inequalities, together with the handling of the legal defense work of the Association, making of speeches, handling general correspondence and other duties that I am personally very much concerned about the state of his health.

The letter concluded with the suggestion that if the NAACP were better funded the association's legal cases would be handled

---

[23]Letter to Thurgood Marshall from Melvin A. Alston, October 8, 1939, NAACP Papers. Group 1, Legal files, Box D-91, Folder Cases Supported Teachers Salary Cases, Norfolk, VA, October 3-31, 1939.

[24]Letter to L. F. Palmer from Thurgood Marshall, October 11, 1939, NAACP Papers, Group 1, Legal files, Box D-91, Folder Cases Supported Teachers Salary Cases, Norfolk, VA, October 3-31, 1939.

in the way that both he and Cooper would wish.[25]

Despite the unhappiness in the Virginia teachers ranks, the struggle gained an important ally the following month. The NAACP had always sent out numerous press releases of its activities, and on November 2, 1939, it received a letter of thanks from Virginius Dabney, editor of the state's most important mainstream newspaper, the **Richmond Times-Dispatch**. Dabney noted that he would "be most interested to watch the progress of their new piece of legislation. Needless to say, we favor equal pay for all school teachers who have to meet similar requirements and do equal work." An editorial the following year put Dabney's sentiment into print: "It is time this discrim-ination was ended, in the interests of fair play, and also of a better public school system."[26]

Marshall changed his legal strategy with the **Alston** case in light of what he had learned and as a result of a new legal development. Since the time the **Black** case had been filed, a loophole in federal civil rights law had opened. Previously one could sue in federal courts only if the amount involved was over $3000, but, of course, no teacher made that much. However,

---

[25]Letter to Mr. Cooper from Walter White, October 26, 1939, NAACP papers, Group 1, Legal files, Box D-91, Folder Cases Supported, Teachers Salary Cases, Norfolk, VA, October 3-31, 1939.

[26]Letter to Thurgood Marshall from Virginius Dabney, November 2, 1939. NAACP Papers, Group 1, Legal Files, Box D-91, Folder Cases Supported, Teachers Salary Cases, Norfolk, VA, November-December, 1939 1940 & undated news clippings 1939. "Editorial of the Week," June 28, 1940. NAACP Papers, Group 1, Legal Files, Box D-91, Folder Cases Supported, Teachers Salary Cases, Norfolk, VA, June-December, 1939; 1940-41.

another federal statute provided for lawsuit in a federal court to protect civil rights and did not mention the $3000 minimum; in June, 1939, after the **Black** case was already filed, the Supreme Court issued a decision in the **Hague** case which "granted jurisdiction to cases to protect civil rights in the federal courts without the $3000 minimum," and Marshall decided to use this decision as a basis for action in the **Alston** case.[27]

Alston's case began similarly to Black's, with a petition for salary equalization sent to the school board in late October. In response, he received a letter from the board denying his petition on the grounds that he could not protest a salary once he had signed a contract. However the board offered to relieve him or any other Norfolk teacher of employment if the teacher were dissatisfied with the terms of the contract.[28]

The NAACP immediately started work on an injunction action in federal courts, having received advice on procedure from two of the **Hague** attorneys. "The **Alston** case will be based upon an action for injunction and a declaratory judgment by Alston as an individual, as a taxpayer, and as a representative of the Norfolk teachers and principals in the colored schools. There will be joined with him the Norfolk Teachers' Association as plaintiff," Marshall noted.[29]

As the NAACP expected, it lost the first legal round when a

---

[27]Marshall, STATEMENT, October 30, 1939.

[28]**Journal and Guide**, peninsula edition, November 4, 1939.

[29]Marshall, SUMMARY, October 30, 1939, p. 2.

judge in Norfolk District Court dismissed the case in February, 1940, but not without severely criticizing the school board's dismissal of Black the previous year and making it plain that discrimination of the basis of race was unconstitutional.[30] The case was immediately appealed to the U.S. Fourth Circuit Court of Appeals and was argued in June of that year.

The Fourth Circuit Court met in Asheville in June, 1940; the regional importance of the case was underscored by the presence of teachers and lawyers from both Carolinas and Tennessee. The court sided with Alston and the NAACP, dismissing the school board's argument that Alston had waived his rights by signing his contract. "If this were sound, there would be no practical means of redress for teachers subjected to unconstitutional discrimination....If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all."[31]

It was no surprise when the school board appealed the decision to the U.S. Supreme Court and when the Supreme Court let

---

[30]**Journal and Guide**, national edition, February 17, 1940; **Journal and Guide**, national edition, February 24, 1940.

[31]Federal Appellate Court Issues Sweeping Opinion in Virginia Teachers' Case, NAACP papers, Group 1, Legal files, Folder: Cases Supported Teachers Salary Cases Virginia, June-Dec 1939, 1940-41. In siding with Alston and the NAACP, Judge John J. Parker, speaking for the Fourth Circuit Court of Appeals, gave "proof that what a man says or does while he is in politics is not a fair indication of what he will do when elevated to high position," noted the **Journal and Guide**. Previously, Parker had been opposed for a seat on the Supreme Court by the NAACP and labor groups. (**Journal and Guide**, national edition, June 29, 1940.

the Appeals Court decision stand on October 28, 1940.[32]

Shortly after the school board's appeal to the Supreme Court was denied, the Norfolk School Board made its last attempt to invalidate the equalization fight. In the winter of 1941 it tried to coerce the district's black teachers to reach a final agreement without the NAACP's consent. It was successful in getting enough black teachers to sign a petition calling a meeting of the Norfolk Teachers' Association to consider an alternate settlement drawn by the city's attorney. If accepted, the agreement would have sought dismissal of the suit, rather than have supported the declaratory judgement and the injunction which would have forced the school board to carry out the terms of the agreement. The NAACP got wind of the meeting and immediately sent two attorneys to fight the move. When the association finally got to vote for either the compromise offered by the city or the agreement reached with the help of the NAACP, the latter option won on a vote of 132 to 34 and was then made unanimous.[33] The victory had its costs: the Norfolk school board

---

[32]Decision #4623. United States Circuit Court of Appeals, Fourth Circuit, **MELVIN O. ALSTON, and the Norfolk Teachers' Association v. SCHOOL BOARD OF THE CITY OF NORFOLK and C. W. MASON, Superintendent**, June 18, 1940. NAACP papers. Group 1, Legal Files, Box D-91. Folder Cases Supported. Teachers Salary Cases. Norfolk, VA, briefs. "Virginians Seek Equal Salaries in Whole State," unidentified clipping, NAACP papers. Group 1, Legal Files, Box D-91. Folder Cases Supported. Teachers Salary Cases. Norfolk, VA, June-December 1939, 1940-41.

[33]Press release, NAACP papers, Group 1, Legal File, Box D-91, Folder Cases Supported Teachers Salary Cases Virginia, June-Dec, 1939, 1940-41.

fired three black principals as a means of petty revenge.[34]

Lawyers from both sides then met to work out a final settlement. The teachers' victory netted them $129,000 given to them in three installments between November, 1940, and September, 1942, when salaries were to be entirely equalized. The school board had to meet other conditions too, including the payment of all court costs up to the termination of the case, payment of at least one third of the total sum each year until September, 1942, the submission of a salary schedule to the teachers, and the payment of increases and increments to all teachers and principals, beginning in January, 1941, without regard to race.[35]

Almost immediately the NAACP prepared a memorandum of the procedures used in this case for the use of other teachers' groups who sought to follow the Norfolk precedent. The document spelled the necessity for organizing local committees (but keeping the names of teachers on the committee secret), conducting a preliminary investigation, educating the public, petitioning the school board, and handling the school board's acquiescence or refusal.[36]

The case had obviously attracted the attention of African-

---

[34]Tushnet, p. 80.

[35]Press release, NAACP papers, Group 1, Legal Files, Box D-91.

[36]"Memorandum of Procedure for Equalization of Teachers' Salaries in Virginia," November 27, 1940, NAACP papers. Group 1, Legal Files, Box D-91, Folder Cases Supported Teachers Salary Cases Virginia, June-December 1939, 1940-41.

American teachers' groups throughout the state, and the Supreme Court's refusal to hear the case prompted plans to use Norfolk's strategy elsewhere. As early as 1939 the NAACP received an inquiry from teachers in Leesburg, VA, about procedures to follow.[37] Teachers in Danville and Culpepper showed interest before the 1940 annual VSTA meeting.[38] On November 12, 1940, the Newport News Negro Teachers Association filed a petition with the city's school board to establish and enforce a single salary schedule without regard to race or color beginning in the 1941-42 year, and a similar petition was filed in Richmond.[39] At its annual meeting the VSTA urged its members to apply for equal salaries within 30 days, gave the NAACP an additional $1000, and urged that every teacher who benefitted from the fight donate $5 to show gratitude.[40]

State and local agencies also reacted to the decision. The **Journal and Guide** reported that a state conference was to be held to which city managers, school authorities, and state officials

---

[37]Letter to A. H. Lucus from Thurgood Marshall, May 24, 1939, NAACP Papers, Library of Congress.

[38]Minutes of the Executive Secretary, November 20, 1940, Virginia Teachers Association Papers, Box #1, Virginia State University.

[39]Petition to the Newport News School Board, November 12, 1940, Virginia State University, Virginia Teachers' Association Papers, Series IV, Executive Secretary Correspondence. E. The Newport News Teachers Association (1940-50), Box 38; "Virginia Education Board Votes to Equalize Salaries," 12/20/1940. NAACP Papers, Group 1, Legal Files, Box D-91, Folder Cases Supported Teachers Salary Cases Virginia, June-Dec 1939, 1940-41.

[40]**Journal and Guide**, November 30, 1940.

were invited. Its purpose was to discuss practical steps for implementing the decision.[41]

By March, 1941, the VSTA had realized that the statewide struggle for salary equalization was not over. A letter to members noted that

> 'Unfortunately only a few divisions have taken a favorable action on these [salary equalization] petitions so far. In a few cities and counties teachers have been told flatly that equalization will not be granted. In most of the divisions no reply has been made to the petitions one way or the other. In a few other places, the teachers themselves are divided as to how they should proceed.[42]

Some places had almost immediate success. The school board in Leesburg voted on December 11, 1940, to equalize salaries by 1943, and other localities had expressed favorable sentiments towards the movement.[43] One of the last holdouts was Newport News, ironically one of the first localities to be petitioned. Against the advice of its own attorney, the board delayed so much that it was eventually declared in contempt of court. On August 30, 1945, the board was finally forced to pay equal salaries, back pay and interest to the petitioning black teachers from

---

[41]**Journal and Guide**, national edition, November 16, 1940.

[42]Letter from L. F. Palmer to Co-Worker, March 1, 1941, Virginia Teaches Association Papers, Series IV. Executive Secretary Correspondence. E. The Newport News Teachers Association, Box #38.

[43]"Virginia Education Board Votes to Equalize Salaries," press release from the NAACP, 12/20/40. NAACP papers, Group 1, Legal Files, Box D-91, Folder Cases Supported Teachers Salary Cases, June-Dec, 1939, 1940-41; **Newport New Times Herald**, January 12, 1294, Virginia Teachers' Association Papers, Series IV, Executive Secretary Correspondence, E. The Newport News Teachers' Association (1940-50), Box #38..

January, 1943, onward, attorneys' fees, and court costs.[44]

The salary equalization struggle in Virginia did improve the equity of finanical outlay between Black and white schools; although the Superintendent's **Annual Report** dropped racial comparisons between salaries about 1940, a survey of per capita expenditures between 1935 and 1951 showed that spending per child became more nearly equal. (Table 2) The **Alston** case added also to the procedural knowledge gained earlier in Maryland and thus influenced the salary fights in other states. (See Table 3.) Although many school boards developed strategies for by-passing the precedents set in Maryland and Virginia such as by setting salaries based on test scores, most localities realized that equal salaries must be paid if they wanted to maintain segregated schools.

The NAACP gradually realized that it was going to be unable to develop means to contend with all the problems of unequal facilities and other features of school inequality and that fully equal separate schools was an impossibility. Consequently, by the end of the 1940s, it decided simply to attack the entire question of school segregation, and the struggle to end segregation is widely known.[45]

The fight for salary inequality, however, was certainly not in vain. Not only did African-American teachers across the

---

[44]Douglas Harris, "The Equalization of Salaries in the Public Schools of Virginia," M. A. thesis, May 31, 1982, Virginia State University, Ettrick, VA.

[45]Tushnet, p. 136.

South gradually begin to receive equal pay for equal work, but also the NAACP had developed a number of useful tools for future work. It had created a group of fairly well paid professional people with a definite debt to the organization. It had honed its skills for mass organization and had made useful contacts in localities throughout the South. Its lawyers had improved their already impressive legal skills and had learned which weak points of the separate but equal system of education could most effectively be probed to crush segregation. The only major loser in the struggle for salary equalization had been injustice itself.

TABLE 1

SELECTED VIRGINIA TEACHER SALARY AVERAGES, 1938-39[46]

SCHOOL SYSTEM	WHITE	AFRICAN-AMERICAN
Albemarle County	$785	$477
Augusta County	$886	$642
Buckingham County	$544	$350
Charlottesville City	$1334	$806
Harrisonburg City	$940	$826
Henrico County	$1042	$629
Loudoun County	$999	$566
Newport News	$1774	$1037
Norfolk City	$1434	$927
Prince Edward County	$977	$478
Richmond City	$1856	$1099
Roanoke City	$1306	$1002
Rockingham County	$776	$525
County Average	$751	$455
City Average	$1380	$958

[46]**Annual Report of the Superintendent of Public Instruction of the Commonwealth of Virginia**, 1938-39, pp. 203-205.

TABLE 2
PER CAPITA COST ON INSTRUCTION, MAINTENANCE, AND OPERATION IN SELECTED VIRGINIA SCHOOL SYSTEMS, 1935-1951

SYSTEM	YEAR	WHITE	BLACK
Arlington	1935-36	$30	$18
	1937-38	33	24
	1940-41[47]	51	33
	1945-46[48]	82	70
	1950-51	139	151
Halifax County	1935-36	$23	$9
	1937-38	24	9
	1940-41	34	13
	1945-46	58	41
	1950-51	97	70
Norfolk	1935-36	$43	$23
	1937-38	47	26
	1940-41	37	19
	1945-46	72	54
	1950-51	103	92
Richmond	1935-36	$59	$28
	1937-38	47	26
	1940-41	111	64
	1945-46	113	101
	1950-51	180	145
Rockingham County	1935-36	$24	$15
	1937-38	27	18
	1940-41	39	37
	1945-46	66	64
	1950-51	102	110[49]
Wise County	1935-36	$18	$15
	1937-38	20	15
	1940-41	28	24
	1945-46	44	36
	1950-51	76	74
State median	1935-36	$27	$14
	1937-38	30	16
	1940-41	38	24
	1945-46	67	52
	1950-51	106	91

[47]From 1940-41 on in each system, the per capita averages were calculated by multiplying the number of students at the elementary or secondary level by the average teacher's salary at that level, adding the two sums together and dividing the total number of students.

[48]For each system, from 1945-46 on the per capita cost of salaries per pupil in average daily attendance.

[49]Elementary only. No secondary education provided.

TABLE 3
TEACHER SALARY EQUALIZATION CASES

LOCATION	YEAR STARTED	YEAR ENDED	COMMENTS
Anne Arundel County, Mary-land	1936	1940	judge ruled that financial considerations cannot over-ride racial equality[50]
Norfolk, Virginia	1938	1940	
Louisville, Kentucky	1940	1941	suit was dis-missed when school board equalized vol-untarily
Jacksonville, Florida	1941	1942	settled by a consent decree but other lo-calities de-veloped dis-criminatory rating systems to avoid equalization[51]
New Orleans, Louisiana	1941	1942[52]	
Chattanooga, Tennessee	1941	1941	resolved with-out NAACP help[53]
Little Rock, Arkansas	1942	1946	first to challenge merit pay dis-crimination[54]
South Carolina	1943	1944	South Carolina went to a merit system[55]
Alabama	1942	1945	settled out of court[56]

[50]Tushnet, p. 58.

[51]Tushnet, 96-97.

[52]Tushnet, p. 98.

[53]Tushnet, p. 89.

[54]Tushnet, pp. 91-92.

[55]Tushnet, p. 93.

[56]Tushnet, p. 93.